

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

UNITED STATES OF AMERICA.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 7:16-cv-00126-O
	§	
LARRY CECIL CABELKA et al.,	§	
	§	
Defendants.	§	

UNITED STATES OF AMERICA.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 7:18-cv-00174-O
	§	
LARRY CECIL CABELKA et al.,	§	
	§	
Defendants.	§	

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

On January 19, 2021, the United States Magistrate Judge issued Findings, Conclusions, and a Recommendation (the “FCR”) in this case. FCR, ECF No. 318. The FCR recommended that the Court grant the United States’ Motion to Appoint Receiver (ECF Nos. 305) and deny Defendant Larry Cecil Cabelka’s Motions to Stay (ECF Nos. 311). *Id.* at 2–3. Defendant Jacqueline Kay Latimer filed a document on behalf of Cabelka entitled “A Motion to File a Response and Objection to this Court Out of Time That was Filed on January 19, 2021,” which the Court liberally construed as an objection to the FCR in light of both Defendants’ *pro se* status. ECF Nos. 319–20. The Government responded on March 1, 2021. ECF No. 321.

The Court has conducted a de novo review of the FCR. For the following reasons, Cabelka and Latimer's Objection is **OVERRULED**, and the Court **ADOPTS** the reasoning in the Magistrate Judge's FCR. The Court **GRANTS** the United States' Motion to Appoint Receiver, **DENIES** Cabelka's Motion to Stay, and **DENIES** Cabelka's Motion for Extension of Time to File Response (ECF No. 322).

I. FACTUAL BACKGROUND

The Court incorporates by reference the facts set forth in the prior FCR, ECF No. 216; the Court's Order Accepting the prior FCR, ECF No. 220; and the Fifth Circuit's affirmation of the Court's final judgment. *See United States v. Cabelka*, 766 F. App'x 57 (5th Cir. 2019). The Court also adopts by references the facts of the Megargel Property Case outlined in the prior FCR on that case's docket. *See* 7:18-cv-00174-O-BP, ECF No. 52.

II. LEGAL STANDARD

The Government is entitled to appointment of a receiver to assist it in collecting on the judgments the Court entered previously. *See* Fed. R. Civ. P. 69(a); Tex. Civ. Prac. & Rems. Code § 31.002(b)(3). Under 26 U.S.C. § 7402(a), the Court may issue "orders appointing Receivers, and such other orders and processes . . . as may be necessary or appropriate for the enforcement of the internal revenue laws." Upon request by the United States, the Court may appoint a receiver. *Id.* § 7402(a).

III. ANALYSIS OF OBJECTION

Following a judgment entered previously by the Court, the Government has properly requested that the Court appoint Robert Ogle, a certified public accountant who previously has served as a court-appointed receiver, to act as the receiver in these cases. Cabelka and Latimer have agreed to the appointment of a receiver to sell the Megargel property, but they object to the

receiver selling any other property. ECF Nos. 311–312; *see also* 7:18-cv-00174-O-BP, ECF Nos. 64–65. As modified by the FCR to resolve the objection, the receiver will be required to obtain approval of the Court before selling any other properties or assets owned by Cabelka. ECF No. 305 at 4; *see also* 7:18-cv-00174-O-BP, ECF No. 57 at 4. Thus, the Court will grant the motion to appoint a receiver as modified.

IV. ANALYSIS OF MOTIONS FOR STAY AND EXTENSION

Although the Court is sympathetic to Cabelka’s condition, he has not shown good cause why he cannot respond to the United States’ Motions to Appoint Receiver or retain counsel to respond on his behalf. Cabelka previously responded to the Government’s Motions to Appoint Receiver in his Motions to Stay, and most recently, Cabelka filed a Motion for Extension of Time to File a Response (ECF No. 322). While he has responded and moved for other forms of relief, Cabelka has not adequately explained why he cannot respond to the United States’ Motions to Appoint Receiver. Thus, the Court will deny Cabelka’s Motions to Stay (ECF Nos. 311; 7:18-cv-00174-O-BP, ECF No. 64) and deny Cableka’s Motion for Extension of Time to File Response (ECF No. 322).

V. CONCLUSION

Having conducted a de novo review of the FCR and Cabelka and Latimer’s Objection, the Court **OVERRULES** each of the Objection; **ADOPTS** the reasoning in the Magistrate Judge’s FCR; **GRANTS** the United States’ Motion to Appoint Receiver; **DENIES** Cabelka’s Motions to Stay, and **DENIES** Cabelka’s Motion for Extension of Time to File Response (ECF No. 322). Pursuant to Federal Rule of Civil Procedure 66, an order appoints receiver shall issue separately.

SO ORDERED on this **22nd day of March, 2021**.


Reed O'Connor
UNITED STATES DISTRICT JUDGE